

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.E.C. No.13 of 2005
Date of decision: November 14, 2006

Commissioner, Central Excise, Delhi-II.

-----Appellant.

Vs.

M/s Kumar Textiles, Faridabad & another.

-----Respondents.

**CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL
HON'BLE MR JUSTICE RAJESH BINDAL**

Present: Mr. M.S. Guglani, Advocate
for the petitioner.

ORDER:

This petition seeks direction to the Tribunal to refer following questions of law for opinion of this Court arising out of its final order No.A/441-442/02-NB(SM), dated 18.3.2002:-

- “I) Whether Rule 96ZQ(5) of the Central Excise Rules confer any discretionary power on any Adjudicating or Appellate Authority to impose penalty less than prescribed under the said Rule?
- II) Whether the subject order of the Tribunal is legally right or not?”

Learned counsel for the petitioner submits that this petition has been rendered infructuous on account of the order passed by the Hon'ble Supreme Court in **Escorts JCB Ltd v. Commissioner of Central Excise, Delhi-II** 2002 (146) ELT 31.

In view of above statement, without going into the merits, we dismiss this petition as prayed for.

**(ADARSH KUMAR GOEL)
JUDGE**

November 14, 2006
ashwani

**(RAJESH BINDAL)
JUDGE**